

REMARKS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

The specification has been amended to address the informality noted by the Examiner.

The claims have been revised to define the invention with additional clarity. Support for the claims as presented can be found throughout the application, including in the claims as originally filed.

Compound claims 1-5 and various dependent compound claims stand rejected under 35 USC 102(b) as lacking novelty over one or more of Kaufmann et al, Hambright, Hambright et al, Bütthe et al, Sari et al and Davila et al. In order to advance prosecution, claim 1 (from which the remaining compound claims depend) has been cancelled and claim 28 has been added in lieu thereof. In claim 28, each R is defined as being, independently, ethyl or isopropyl. The compounds claimed are not taught by the cited art and reconsideration is thus requested.

Claim 1-27 stand rejected under 35 USC 112, first paragraph, as allegedly being non-enabled. Withdrawal of the rejection is submitted to be in order for the reasons that follow.

(a) The claims as now presented include reference to a counterion, thereby mooting the Examiner's concerns regarding the depiction of the compounds as cations.

(b) While in no way agreeing with the Examiner's assertion regarding the enablement provided for electron withdrawing groups, the claims as now presented define "A" (formerly "P") as hydrogen or a halogen..

(c) As regards the Examiner's concerns regarding the scope of pathological conditions encompassed by the claims, oxidative stress, has, in fact, been identified as a central element in a wide range of diseases including, in addition to asthma and inflammatory lung disease, neurodegenerative diseases and ischemic heart disease, as well as a number of other diseases (exemplary publications can be provided upon request).

As regards the Examiner's assertions regarding the scope of the compounds tested, attention is directed to the fact that there is no requirement that all of the compounds that fall within the scope of the claims be equivalent. All that is required that there be reasonable basis for predicting operability. Respectfully, such is the case here and as the Examiner offered nothing to indicate otherwise.

Reconsideration is requested.

Claims 1-27 stand rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Withdrawal of the rejection is in order for the reasons that follow.

(a) The letter "P" has been replaced by the letter "A", thereby mooting the Examiner's concern.

(b) Clear copies of the figures are provided in the claims as presented.

(c) The claims as now presented are believed to address the Examiner's concerns as regards the depiction of a metal complex.

(d) A counterion has been included as suggested.

(e) The phrase "electron withdrawing group" does not appear in the claims as presented.

(f) The phrase "a nitrile ..." does not appear in the present claims.

(g) Proper Markush language is used in the claims as now presented.

(h) The phrase "or biologically active form thereof" does not appear in the present claims.

(i) The Examiner contends that claims 16-22 are of indeterminate scope in reciting mechanisms of action. Respectfully, no basis for this assertion is seen. The mechanism underlying the pathological condition is clearly defined, the fact that the claim may embrace disorders not

yet know to be associated with that mechanism is irrelevant. The Examiner is urged to take note of the fact that reciting a mechanism in a method claim is common practice. By way of example, attention is directed to claim 14 of USP 6,235,900, claim 7 of USP 6,221,900 and claim 28 of USP 6,207,669. Other examples can be provided should the Examiner so request.

Reconsideration is requested.

Attached hereto is a marked-up version of the changes made to the specification by the current amendment. The attached page is captioned "Version With Markings To Show Changes Made."

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

NIXON & VANDERHYE, P.C.

By Mary J. Wilson
Mary J. Wilson
Reg. No. 32,955

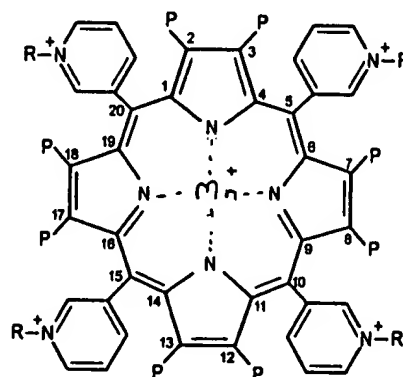
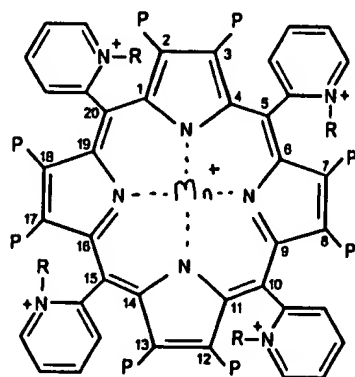
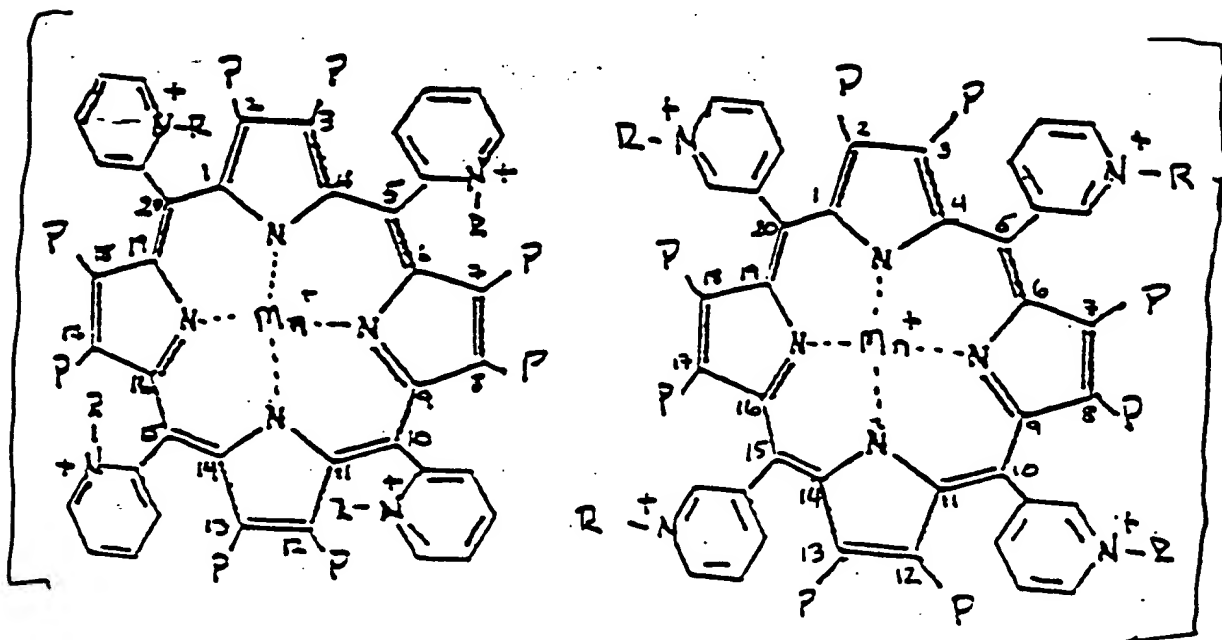
MJW:tat

1100 North Glebe Road
8th Floor
Arlington, Virginia 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION:

The paragraph beginning at page 8, lines 1-12:



A